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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

In re M.M., a Person Coming Under the  
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

M.M.,

Defendant and Appellant.

E045714

(Super.Ct.No. J220179)

OPINION

APPEAL from the Superior Court of San Bernardino County. Michael A. Knish,  
Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Lauren E. Eskenazi, under appointment by the Court of Appeal, for Defendant and  
Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant  
Attorney General, Gary W. Schons, Assistant Attorney General, and Jeffrey J. Koch and  
Scott C. Taylor, Deputy Attorneys General, for Plaintiff and Respondent.

On April 25, 2008, an amended petition under Welfare and Institutions Code section 602, subdivision (a), was filed. It charged minor, M.M., with felony vandalism under Penal Code section 594, subdivision (b)(1) (count 1) and resisting or delaying a public officer under Penal Code section 148, subdivision (a)(1) (count 2). On April 30, 2008, the prosecution dismissed count 1 and added count 3, misdemeanor vandalism under Penal Code section 594, subdivision (b)(2)(A).<sup>1</sup>

After the evidence was presented, the juvenile court dismissed count 3 for lack of evidence but found the allegations in count 2, resisting a public officer under section 148, true. The court placed minor on probation in the custody of his mother.

On appeal, minor contended that his conviction under section 148 was not supported by substantial evidence because he did not resist a public officer. We agreed and reversed the judgment; we held that, as a matter of law, a campus security officer is not a public officer. The Supreme Court granted the People's petition for review, reversed our judgment, and remanded the case for further proceedings consistent with the views expressed in its opinion.

## I

### FACTUAL AND PROCEDURAL HISTORY

On January 30, 2008, the security department at Arroyo Valley High School received a call regarding vandalism on campus. Campus Security Officers Bryan Butts, Oscar Ramos, and Ron Meyer responded directly to the scene, while Officer Alfredo

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<sup>1</sup> All statutory references are to the Penal Code unless otherwise specified.

Yanez drove his patrol car around the perimeter of the school campus. Unlike Security Officer Butts, Officer Yanez is a peace officer employed by the San Bernardino City Unified School District.

When the campus security officers arrived at the scene, they saw a group of students scatter. They pursued one group of three or four students, one of whom was minor, heading towards Baseline Street.

As they began to pursue the group, Officer Butts yelled to the group several times to stop. Minor and Officer Butts were well acquainted with each other; they had over 30 conversations with each other. Officer Butts yelled directly to minor, by name, to stop many times. Minor continued to run.

During this pursuit, Officer Butts saw minor throw a white container on the ground. The officer believed this container to be a spray paint can. Later, Officer Butts returned to retrieve the object thrown, but only found a water bottle.

Eventually, minor exited the campus and encountered Officer Yanez. Minor immediately submitted to his command to stop and was arrested.

## II

### ANALYSIS

In this case, the Supreme Court concluded “that a school security officer, as defined in section 38001.5, subdivision (c) of the Education Code, is a ‘public officer’ within the meaning of section 148[, subdivision] (a)(1) of the Penal Code.” (*In re M.M.* (2012) 54 Cal.4th 530, 545-546.) Since the Supreme Court has issued a decision on this

matter, we are obligated to follow our high court's precedent. (*Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 455.) Therefore, consistent with the views expressed by the Supreme Court, the trial court's judgment shall be affirmed.

### III

#### DISPOSITION

The trial court's judgment is affirmed.

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MCKINSTER  
J.

We concur:

RAMIREZ  
P.J.

RICHLI  
J.